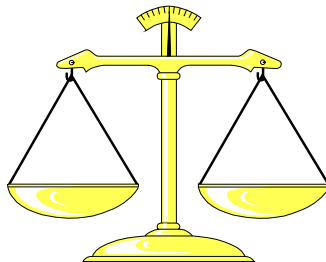


Board of Chiropractic Examiners

Disciplinary Guidelines and Model Disciplinary Orders



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Introduction

The Board of Chiropractic Examiners (board) recognizes the need to promulgate uniform disciplinary guidelines for particular violations in order to establish some consistency in disciplinary penalties for similar offenses. The board recognizes that these conditions are merely guidelines and the mitigating or aggravating circumstances in a particular case may necessitate variations. In such cases, the mitigating circumstances shall be detailed in any proposed decision or any transmittal memorandum accompanying a proposed stipulation.

In accordance with Section 384 of the California Code of Regulations, the board has produced this booklet for those involved with and affected by the disciplinary process: the general public, attorneys from the Office of the Attorney General, administrative law judges from the Office of Administrative Hearings, defense attorneys, board licensees, board staff and board members who review and vote on proposed decisions and stipulations, and the courts.

The board has found that accusations are rarely filed except in serious cases. In general, the position of the board is that revocation should always be an option whenever grounds for discipline are found to exist. Board policy is that revocation is generally an appropriate order where a respondent is in default, such as when he or she fails to file a notice of defense or fails to appear at a disciplinary hearing.

The board seeks recovery of all investigative and prosecution costs up to the hearing in all disciplinary cases, including all charges of the Office of the Attorney General including, but not limited to legal services and opinions of expert consultants, because the burden for paying for disciplinary cases should fall on those whose conduct requires investigation and prosecution, not upon the profession as a whole.

Disciplinary Guidelines

Factors to Be Considered in Determining Penalties

Section 10(b) of the Chiropractic Initiative Act provides that the board may discipline the holder of, or suspend or revoke, any license issued by the board.

In determining whether the minimum, or an intermediate penalty is to be imposed in a given case, factors such as the following should be considered:

1. Actual or potential harm to the public.
2. Actual or potential harm to any consumer.
3. Prior disciplinary record, including level of compliance with disciplinary orders.
4. Prior warnings of record.
5. Number and/or variety of current violations.
6. Nature and severity of the act(s), offense(s) or crime(s) under consideration.
7. Mitigating evidence.
8. Rehabilitation evidence.
9. Compliance with terms of any criminal sentence.
10. Overall criminal record.
11. Time passed since the act(s) or offense(s).
12. Whether the conduct was intentional or negligent, demonstrated incompetence, or, if respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct.
13. The financial benefit to the respondent from the misconduct.

No one of the above factors is required to justify the minimum and maximum penalty as opposed to an intermediate one.

Mitigating Evidence

A respondent is permitted to present mitigating circumstances at a hearing or in the settlement process and has the burden of demonstrating any rehabilitative or corrective measures he or she has taken. The board does not intend, by the following references to written statements, letters, and reports, to waive any evidentiary objections to the form of such evidence. The respondent must produce admissible evidence in the form required by law in the absence of a stipulation by the complainant.

The following are examples of appropriate evidence a respondent may submit to demonstrate his/her rehabilitative efforts and competency:

- a. Recent, dated written statements from persons in positions of authority who have on-the-job knowledge of the respondent's current competence in the practice of chiropractic. Each statement should include the period of time and capacity in which the person worked with the respondent and should be signed under penalty of perjury. All letters will be subject to verification by board staff.
- b. Recent, dated letters from counselors regarding the respondent's participation in a rehabilitation or recovery program, where appropriate. These should include at least a description and requirements of the program, a psychologist's diagnosis of the condition and current state of recovery and the psychologist's basis for determining rehabilitation.
- c. Recent, dated letters describing respondent's participation in support groups, e.g. Alcoholics Anonymous, Narcotics Anonymous, Professional Support Groups, etc., where appropriate.
- d. Recent, dated laboratory analyses or drug screen reports, where appropriate.
- e. Recent, dated performance evaluation(s) from the respondent's employer(s).
- f. Recent, dated physical examination or assessment report by a licensed physician, if appropriate.

Terms of Probation

Probation conditions are divided into two categories: 1) standard conditions that shall appear in **all** probation cases, and 2) optional conditions that depend on the nature and circumstances of a particular case. The board prefers that the optional conditions be placed before the standard conditions in sequence in the proposed disciplinary order.

The board may also impose other conditions appropriate to the case which condition is not contrary to public policy.

Standard Conditions - To be included in all probation decisions/orders.

1. Obey all laws
2. Quarterly reports
3. Probation monitoring
4. Interview with board
5. Continuing education
6. Reimbursement of board costs
7. Tolling of probation

8. Tolling of suspension
9. Supervision of unlicensed person
10. Violation of probation
11. Notification of employment
12. Notice to employers
13. Notice to employees
14. License surrender
15. Completion of probation

Optional Conditions

1. Actual suspension
2. Abstain from drug use
3. Drug abuse counseling/detoxification
4. Abstain from alcohol use
5. Alcohol abuse counseling/detoxification
6. Blood and/or urine testing
7. Examination
8. Supervision of practice
9. Auditing of billing practices
10. Restitution for consumers
11. Psychological evaluation
12. Psychiatric or psychological therapy
13. Medical evaluation
14. Education
15. Community service
16. Restricted practice
17. Third party presence - sexual transgressors
18. Notification to patients

Categories of Violations and Recommended Penalties

The Chiropractic Initiative Act and the California Code of Regulations specify the offenses for which the board may take disciplinary action. The following are categories of violations used by the board in determining appropriate disciplinary penalties.

The board also has the authority, pursuant to California Code of Regulations section 304, to impose discipline based on disciplinary action taken by another jurisdiction. The discipline imposed by the board will typically correspond with the discipline imposed by the other jurisdiction for similar offenses.

CATEGORY I

Minimum: Revocation stayed; 1-2 years probation

Maximum: Revocation

All standard terms and conditions.

Recommended for the following violations which are relatively minor, but are potentially harmful, or for repeated violations of a relatively minor nature:

Chiropractic Initiative Act

5 Practicing without a valid license

10(b) Improper use of fictitious names

California Code of Regulations

303 Practicing without notifying board of business address

308 Practicing without properly posting license; failure to obtain and post satellite office certificate

310 Change of name

312 Unlicensed practice (*for use in **less** egregious cases or for applicants*)

367.5 Application for chiropractic corporation

367.7 Name of corporation

367.9 Shares: ownership and transfer

Business and Professions Code

1051 Application for registration as a chiropractic corporation

Health and Safety Code

123110 Failure to provide treatment records

CATEGORY II

Minimum: Revocation stayed, 3 years probation

Maximum: Revocation

All standard terms and conditions of probation

Optional terms and conditions, as applicable

1. Actual suspension with posted notice

2. Abstain from drug use
3. Drug abuse counseling/detoxification
4. Abstain from alcohol use
5. Alcohol abuse counseling/detoxification
6. Blood and/or urine testing
7. Examination
8. Supervision of practice
9. Auditing of billing practices
10. Restitution for consumers
11. Psychological evaluation
12. Psychiatric or psychological therapy
13. Medical evaluation
14. Education
15. Community service
16. Restricted practice
17. Third party presence - sexual transgressors
18. Notification to patients

Recommended for violations with a more serious potential for harm, for violations which involve greater disregard for chiropractic law and public safety, or for violations which reflect on ethics, care exercised or competence.

Chiropractic Initiative Act

- 10(b) Advertising treatment of sexual disorders
 15 Misleading use of title

California Code of Regulations

- 306.1(c) Failure to appear for hearing
 311 Advertising
 312 Unlicensed practice (*for use in **more** egregious cases*)
 317(l) Making or signing false documents
 317(n) Making false statement on the license application
 317(p) False, misleading, or deceptive advertising
 317(r) Unauthorized disclosure of patient information; failure to maintain confidentiality
 317.1 Failure to register referral service
 318(a) Chiropractic patient records
 318(b) Accountable billings
 319 Inappropriate billing for services advertised as free or discounted

Business and Professions Code

- 650.3 Group advertising and referral services
 651 False, misleading, or deceptive advertising

CATEGORY III

Minimum: Revocation stayed, minimum thirty (30) days suspension, 5 years probation

Maximum: Revocation

All standard terms and conditions of probation

Optional terms and conditions, as applicable

1. Actual suspension with posted notice
2. Abstain from drug use
3. Drug abuse counseling/detoxification
4. Abstain from alcohol use
5. Alcohol abuse counseling/detoxification
6. Blood and/or urine testing
7. Examination
8. Supervision of practice
9. Auditing of billing practices
10. Restitution for consumers
11. Psychological evaluation
12. Psychiatric or psychological therapy
13. Medical evaluation
14. Education
15. Community service
16. Restricted practice
17. Third party presence - sexual transgressors
18. Notification to patients

Recommended for most criminal convictions involving moral turpitude, sexual misconduct or fraudulent acts committed in connection with the licensee's practice. Also to be used in cases involving gross negligence/incompetence, capping, steering, accepting fees for patient referrals, excessive treatment or for violation of a licensee's corresponding responsibility.

Chiropractic Initiative Act

7 Unauthorized practice of medicine

California Code of Regulations

- 302(a) Practice exceeding the scope of practice
302(a)(5) Use of drug or medicine in materia medica
312(c) Failure to properly supervise
313 Inducing student to practice chiropractic
316(b) Sexual misconduct
316(c) Responsibility for conduct on premises

317(a)	Gross negligence
317(b)	Repeated negligent acts
317(d)	Excessive treatment
317(e)	Intentionally or recklessly causing harm to the public
317(f)	Habitual intemperance with drugs or alcohol
317(g)	Conviction of a crime
317(h)	Conviction involving moral turpitude, dishonesty, or corruption
317(i)	Possession, distribution, or use of drugs
317(j)	Commission of dishonest or fraudulent act related to duties or functions of license
317(l)	Aiding and abetting unlicensed activity
317(p)	Obtaining fee by fraud or deceit
317(r)	Use of cappers or steerers
317(s)	Fee for referrals

Business and Professions Code

1054	Name of a chiropractic corporation
1055	Officers of chiropractic corporation not licensed as required in Professional Corporation Act
725	Excessive prescribing or treatment (<i>for use in less egregious cases</i>)
726	Sexual relations with patients (<i>for use in less egregious cases</i>)
810	False or fraudulent claims (<i>for use in less egregious cases</i>)

CATEGORY IV

Penalty: Revocation

Recommended for **more egregious** cases involving insurance fraud, sexual misconduct, excessive treatment. Revocation is also recommended when: 1) respondent fails to file a notice of defense or to appear at a disciplinary hearing where the board has requested revocation in the accusation; 2) respondent violates the terms and conditions of probation from a previous disciplinary order; and 3) where prior discipline has been imposed, as progressive discipline unless respondent can demonstrate satisfactory evidence of rehabilitation.

California Code of Regulations

316(a)	Sexual misconduct
317(d)	Excessive treatment
317(g)	Conviction of a crime (<i>involving insurance fraud</i>)
317(h)	Conviction involving moral turpitude, dishonesty, or corruption (<i>involving insurance fraud</i>)

Business and Professions Code

725	Excessive prescribing or treatment
726	Sexual relations with patients
810	False or fraudulent claims

Model Disciplinary Orders

Model Number

1. Revocation - Single Cause

License No. (Ex:DC-4444) issued to respondent (Ex: John Smith, D.C.) is revoked. Respondent shall relinquish his/her wall license and pocket renewal license to the board or its designee within ten (10) days of the effective date of this decision. Respondent may not petition the board for restoration of his/her revoked license for two (2) years from the effective date of this decision. Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$ _____ within fifteen (15) days of the effective date of this decision.

(Optional) Upon restoration of his/her revoked license, respondent shall reimburse the Board for its investigation and prosecution costs in the amount of \$ _____, and shall be paid in full prior to the restoration of his/her license.

2. Revocation - Multiple Causes

License No. _____ issued to respondent _____ is revoked pursuant to Determination of Issues (Ex: I, II, and III) separately and together. Respondent shall relinquish his/her wall license and pocket renewal license to the board or its designee within ten (10) days of the effective date of this decision. Respondent may not petition the board for restoration of his/her revoked license for two (2) years from the effective date of this decision. Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$ _____ within fifteen (15) days of the effective date of this decision.

(Optional) Upon restoration of his/her revoked license, respondent shall reimburse the board for its investigation and prosecution costs in the amount of \$ _____, and shall be paid in full prior to the restoration of his/her license. If respondent fails to pay the amount specified, his or her the license shall remain revoked.

3. Suspension - Single Cause

License No. _____ issued to respondent _____ is suspended for (Ex: 30 days/one year).

4. Suspension - Multiple Causes

License No. _____ issued to respondent _____ is suspended for _____ pursuant to Determination of Issues _____, separately and together. All suspensions shall run concurrently. Respondent is suspended from the practice of chiropractic for _____ beginning the effective date of this decision.

5. Suspension - Multiple Causes (run consecutively)

License No. _____ issued to respondent _____ is suspended _____ (Ex: 30 days) pursuant to Determination of Issues _____ and _____ (Ex: 60 days) pursuant to Determination of Issues _____. These suspensions shall run consecutively, for a total of _____ (Ex: 90 days).

6. Standard Stay Order

However, _____ (revocation/suspension) is stayed and respondent is placed on probation for _____ (Ex: five) years upon the following terms and conditions:

7. Surrender of License

Respondent surrenders license number _____ (Ex: DC-1234) as of the effective date of this decision. Respondent shall relinquish his/her wall license and pocket renewal license to the Board or its designee within ten (10) days of the effective date of this decision. Respondent may not apply for a license for two (2) years from the effective date of this decision. Respondent stipulates that should respondent apply for licensure from the board on or after the effective date of this decision all allegations set out in the accusation shall be deemed to be true. Respondent shall meet all requirements for licensure as of the date the application is submitted to the Board, including, but not limited to taking and passing the California chiropractic law exam prior to issuance of the license.

Respondent further stipulates that respondent shall reimburse the board for investigation and prosecution costs in the amount of \$ _____ within _____ days of the effective date of this decision.

(Optional) Respondent stipulates that should respondent apply for restoration of his/her license he/she shall pay to the Board costs associated with its investigation and enforcement in the amount of \$ _____ shall be paid to the board prior to issuance of the license.

Optional Terms and Conditions

Model Number

1. Actual Suspension

As part of probation, respondent is suspended from the practice of chiropractic for (Ex: 90 days) beginning the effective date of this decision. Respondent shall prominently post a suspension notice provided by the board in a place conspicuous and readable to the public. The suspension notice shall remain posted during the entire period of actual suspension.

Respondent shall not, directly or indirectly, engage in any conduct or make any statement which is intended to mislead or is likely to have the effect of misleading any patient, member of the public, or other person as to the nature of and reason for the suspension.

Respondent shall not direct or control any aspect of the practice of chiropractic. Subject to the above restrictions, respondent may continue to own or hold an interest in the chiropractic practice in which he or she holds an interest at the time this decision becomes effective.

2. Drugs - Abstain From Use

Respondent shall abstain from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by Section 4022 of the Business and Professions Code, unless prescribed by a medical practitioner for a bona fide illness.

3. Drug Abuse Counseling/Detoxification

Within thirty (30) days from the effective date of this Decision, respondent shall propose to the board, for prior approval, the name of one or more drug abuse rehabilitation programs and shall, within thirty (30) days after notification of the board's approval of such a program, enroll in that approved substance abuse rehabilitation program, and comply with all requirements of the program, including drug testing. Respondent shall submit proof satisfactory to the board of compliance with this term of probation. Failure to comply with the program requirements shall be considered a violation of probation. The costs for participation in the program shall be borne by the respondent. Respondent

shall sign a Release of Information allowing the program to release to the board all information the board deems relevant. Probation shall be extended automatically until respondent successfully completes his/her rehabilitation program.

4. **Alcohol - Abstain From Use**

Respondent shall abstain from the use of alcoholic beverages.

5. **Alcohol Abuse Counseling/Detoxification**

Within thirty (30) days from the effective date of this Decision, respondent shall propose to the board, for prior approval, the name of one or more alcohol abuse rehabilitation programs and shall, within thirty (30) days after notification of the board's approval of such a program, enroll in that approved alcohol abuse rehabilitation program, and cooperate with all requirements of the program, including drug testing. Respondent shall submit proof satisfactory to the board of compliance with this term of probation. Failure to comply with the program requirements shall be considered a violation of probation. The costs for participation in the program shall be borne by the respondent. Respondent shall sign a Release of Information allowing the program to release to the board all information the board deems relevant. Probation shall be extended automatically until respondent successfully completes his/her rehabilitation program.

6. **Blood and/or Urine Testing**

Respondent shall immediately submit, with or without prior notice, to blood and/or urine testing, at respondent's expense, upon the request of the board or its designee. The length and frequency of this testing requirement will be determined by the board. Any confirmed positive finding will be considered a violation of probation.

7. **Take and Pass Examination**

Respondent shall take and pass a written or practical examination designated by the board. If respondent is directed to take an examination currently required of new applicants for licensure as a chiropractor, the examination shall be taken on a regularly scheduled date. If respondent fails this examination, respondent must take and pass a re-examination. The respondent shall pay the cost of the examination and any subsequent re-examinations at the examination fee currently in place. Failure to pass a required examination prior to the termination date of probation shall constitute a violation of probation.

Option #1: If respondent fails the first examination, respondent shall cease the practice of chiropractic until the examination has been passed, as evidenced by the written notice to respondent from the board.

NOTE: Particularly recommended in cases where the respondent has been found to be incompetent or repeatedly negligent.

Option #2: Respondent shall not practice chiropractic until respondent has passed the required examination and has been so notified by the board in writing.

NOTE: Particularly recommended in cases where respondent has been found to be incompetent or grossly negligent and patient/client injury has resulted.

8. Supervision of Practice

Within thirty (30) days of the effective date of this decision, respondent shall submit to the board, for its prior approval, a plan of practice in which respondent's practice shall be supervised by another doctor of chiropractic including the name and qualifications of three proposed supervisors. Each proposed supervisor shall be a California licensed chiropractor, who shall submit written reports to the board on a quarterly basis verifying that supervision has taken place as required and including an evaluation of respondent's performance. Respondent shall not practice until s/he has received notification that the board has approved his/her supervisor. It shall be the respondent's responsibility to assure that the required reports are filed in a timely fashion. Respondent shall give the supervisor access to the respondent's fiscal and patient records. The supervisor shall be independent, with no prior business professional or personal relationship with respondent. If the supervisor resigns or is no longer available, respondent shall, within 15 days, move to have a new monitor appointed, through nomination by respondent and approval by the board. Respondent shall not practice until a new supervisor has been approved by the board. All costs of the supervision shall be borne by respondent. Supervision shall consist of at least one (1) hour per week in individual face to face meetings. Failure to comply with this condition shall be considered a violation of probation.

Option #1: Respondent is prohibited from engaging in solo practice.

NOTE: Particularly recommended in cases where respondent has been found to be incompetent or negligent and patient/client injury has resulted.

Option #2: Respondent shall be prohibited from unilaterally signing insurance and worker's compensation insurance claim documents. All insurance and workers' compensation insurance claim forms are to be co-signed by a licensed chiropractor approved by the board.

NOTE: Recommended in cases of insurance and worker's compensation insurance fraud.

Option #3: Within forty-five (45) days of the effective date of this decision and on a quarterly basis thereafter and at respondent's expense, respondent shall obtain a review of the books and records of respondent's chiropractic practice by a certified public accountant licensed in good standing in this state approved by

the board. Said certified public accountant shall review the books and records of respondent's chiropractic practice to determine whether respondent has delivered, received or accepted any rebate, refund, commission, preference, patronage, dividend, discount or other consideration, whether in the form of money or otherwise, as compensation or inducement for the referral of patients, clients or customers to him/her or his/her practice or by him/her. Within ten (10) days of the completion of each review, said certified public accountant shall complete and submit a written report of his/her review to the board. Respondent shall be responsible for the completion and submission of each said report. Failure to comply with this condition shall be considered a violation of probation.

NOTE: Recommended in cases involving capping, steering, or fees for patient referrals.

9. Auditing of Billing Practices

Within sixty (60) days of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of one or more persons licensed in good standing as a certified public accountant in this state, and a plan by which each such certified public accountant (CPA) would monitor respondent's billing practices. All proposed CPA's shall be independent, with no prior business, professional, or personal relationship with respondent. The CPA approved by the board shall submit written reports to the board on a quarterly basis verifying that monitoring has taken place as required. It shall be respondent's responsibility to ensure that the required reports are filed in a timely fashion

Respondent shall give the CPA access to respondent's fiscal and patient records. Monitoring shall consist of at least four (4) hours per quarter of review of respondent's fiscal and patient records. After two quarters, if the CPA determines that less time is sufficient for compliance, the respondent may request board approval of a reduction of the number of hours of review. If ever the CPA prepares a quarterly report to the board which finds substantial errors or omissions in, or questionable billing practices, monitoring may be increased at the discretion of the board and respondent shall comply therewith. All costs of monitoring shall be borne by respondent.

If at any time during the period of probation, the CPA quits or is otherwise unavailable to perform his/her monitoring duties, within thirty (30) days of the same, respondent shall submit to the board, for its prior approval, the name and qualifications of one or more persons licensed as CPA's in this state and a plan by which each such CPA would monitor respondent's billing practices.

10. Restitution for Consumers

Within one (1) year from the effective date of this decision, respondent shall pay to _____ the amount of \$ _____. Failure to pay the costs within the first year of probation is a violation of probation.

11. Psychiatric or Psychological Evaluation

Within thirty (30) days of the effective date of this decision, and on a periodic basis as may be required by the board or its designee, respondent shall undergo, at his/her own expense, psychiatric evaluation by a board-appointed or board-approved psychiatrist or psychotherapist. Respondent shall sign a release which authorizes the evaluator to furnish the board a current diagnosis and written report regarding the respondent's judgment and ability to function independently as a chiropractor with safety to public and whatever other information the board deems relevant to the case. The completed evaluation is the sole property of the board.

If the psychiatrist or psychotherapist recommends and the board or its designee directs respondent to undergo psychotherapy, respondent shall, within thirty (30) days of written notice of the need for psychotherapy, submit to the board or its designee for its prior approval, the recommended program for ongoing psychotherapeutic care. Respondent shall undergo and continue psychotherapy, at respondent's own expense, until further notice from the board. Respondent shall have the treating psychotherapist submit quarterly reports to the board, or its designee.

(Optional) Commencing on the effective date of this decision, respondent shall not engage in the practice of chiropractic until notified in writing by the board or its designee that respondent is psychologically fit to practice chiropractic.

During suspension, respondent shall not enter any chiropractic practice. Respondent shall not direct or control any aspect of the practice of chiropractic. Subject to the above restrictions, respondent may continue to own or hold an interest in any chiropractic practice in which he or she holds an interest at the time this decision becomes effective.

(Optional) If recommended by the psychiatrist or psychotherapist and approved by the board or its designee, respondent shall be barred from practicing chiropractic until the treating psychotherapist recommends, in writing and stating the basis thereof, that respondent can safely practice chiropractic, and the board approves said recommendation.

During suspension, respondent shall not enter any chiropractic practice. Respondent shall not direct or control any aspect of the practice of chiropractic. Subject to the above restrictions, respondent may continue to own or hold an interest in any chiropractic practice in which he or she holds an interest at the time this decision becomes effective.

NOTE: Strongly recommended for those cases where evidence demonstrates that mental illness or disability was a contributing cause of the violation.

12. Psychological Therapy

Within thirty (30) days of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a psychotherapist or licensed mental health practitioner of respondent's choice. Should respondent, for any reason, cease treatment with the approved psychotherapist or licensed mental health practitioner, respondent shall notify the board immediately and, within 30 days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent's choice to the board for its prior approval.

Upon approval of the psychotherapist or licensed mental health practitioner, respondent shall undergo and continue treatment, with that therapist and at respondent's expense, until the board deems that no further psychotherapy is necessary. Respondent shall have the treating psychotherapist submit quarterly status reports to the board. The board may require respondent to undergo psychiatric evaluations by a board-appointed or board-approved psychiatrist or psychotherapist.

NOTE: Appropriate for those cases where evidence demonstrates sexual misconduct or commission of an act punishable as a sexual crime.

13. Medical Evaluation

Within thirty (30) days of the effective date of this decision, and on a periodic basis thereafter as may be required by the board or its designee, respondent shall undergo a medical evaluation, at respondent's expense, by a board-appointed or board-approved physician who shall furnish a medical report to the board or its designee.

If respondent is required by the board or its designee to undergo medical treatment, respondent shall, within thirty (30) days of written notice from the board, submit to the board for its prior approval, the name and qualifications of a physician of respondent's choice. Upon board approval of the treating physician, respondent shall undergo and continue medical treatment, with that physician and at respondent's expense, until further notice from the board. Respondent shall have the treating physician submit quarterly reports to the board. Should respondent, for any reason, cease treatment with the approved physician, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician of respondent's choice to the board for its prior approval.

(Optional) Upon the effective date of this decision, respondent shall not engage in the practice of chiropractic until notified in writing by the board of its determination that respondent is medically fit to practice safely.

NOTE: Appropriate for those cases where the evidence demonstrates that the respondent has had a physical problem/disability which was a contributing cause of the violation(s) and which may affect the respondent's ability to practice.

14. Education

Within thirty (30) days of the effective date of this decision, respondent shall submit to the board for its prior approval, an educational course related to (Ex: ethics) in an educational facility or program. The facility or program shall also be subject to the board's prior approval. Respondent shall take and successfully complete (Ex: three [3]) semester units in each subject area before the end of the first (Ex: year; two years) of probation. Said course work shall be in addition to the continuing chiropractic educational requirements for annual license renewal. Class room attendance is specifically required. Failure to complete the education as set out hereinabove is grounds for filing a petition to revoke probation.

15. Community Service

Within sixty (60) days of the effective date of this decision, respondent shall submit to the board, for its prior approval, a community service program in which respondent shall provide volunteer services on a regular basis to a community or charitable facility or agency for at least _____ hours per (month, year) for the first (months, year) of probation. Such community service does not necessarily include chiropractic service.

16. Restricted Practice

Respondent's practice of chiropractic shall be restricted to [specify patient population and/or setting] for the first _____ years of probation. Within thirty (30) days from the effective date of the decision, respondent shall submit to the board, for prior approval, a plan to implement this restriction. Respondent shall submit proof, satisfactory to the board, of compliance with this term of probation.

NOTE: The restrictions shall be appropriate to the violation.

17. Third Party Presence - Sexual Transgressors

During probation, respondent shall have a third party present while examining or treating (female/male/minor) patients. Respondent shall, within thirty (30) days of the effective date of the decision, submit to the board or its designee for its approval the name(s) of persons who will act as the third party present. The respondent shall execute a release authorizing the third party(s) present to divulge any information that the board or its designee may request on a periodic basis during the probation monitoring.

NOTE: Sexual transgressors should be placed in a supervised environment.

18. Notification to Patients

Respondent shall notify all current and potential patients of the probation, especially any term or condition of probation which will affect their treatment or the confidentiality of their records. Such notification shall be signed by each patient prior to continuing or commencing treatment. Respondent shall submit, upon request by the board, satisfactory evidence of compliance with this term of probation. Terms of probation which require such notification include, but are not limited to, suspension of practice, supervised practice, and restricted practice.

Standard Terms and Conditions

Model Number

1. Obey All Laws

Respondent shall obey all federal, state and local laws, and all statutes and regulations governing the practice of Chiropractic in California.

2. Quarterly Reports

Respondent shall submit quarterly reports under penalty of perjury on a form entitled "Quarterly Probation Report" (No. QPR100 (Rev. 1/99)), certifying and documenting whether there has been compliance with all conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made.

3. Probation Monitoring

Respondent shall pay the costs associated with probation monitoring each and every year of probation. Respondent shall comply with the Board's probation compliance monitoring program. Failure to pay costs or comply with probation monitoring shall be considered a violation of probation.

4. Interview with Board

Respondent shall appear in person for interviews with the board's enforcement staff, the full board, or its designee upon request at various intervals and with reasonable notice.

5. Continuing Education

Respondent shall provide evidence of continuing education, required for license renewal, if requested by the board.

6. Reimbursement of Board Costs

Respondent shall reimburse to the board its costs of investigation and prosecution in the amount of \$_____.

Respondent shall make said payments as follows: _____.

If respondent fails to pay the costs as directed by the board and on the date(s) determined by the board, probation shall be automatically extended until such time that all costs are paid in full.

7. Tolling of Probation

If respondent leaves California to reside or practice outside this state, or for any reason should respondent stop practicing chiropractic in California, respondent must notify the board in writing of the dates of departure and return or the dates of non-practice within ten (10) days of departure or return. Non-practice is defined as any period of time exceeding thirty (30) days in which respondent is not engaging in the practice of chiropractic as defined in section 302 of the California Code of Regulations. Periods of temporary residency or practice outside the state or of non-practice within the state shall not apply to reduction of the probationary period. It shall be a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding a total, consecutive period of [three] years.

8. Tolling of Suspension

If respondent leaves California to reside or practice outside this state, or for any period exceeding ten (10) days (including vacation), respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state or any absence exceeding a period of ten (10) days shall not apply to the reduction of the suspension period.

Respondent shall not practice chiropractic upon returning to this state until notification by the Board the period of suspension has been completed.

9. No Preceptorships or Supervision of Interns

Respondent shall not supervise any intern and shall not perform any of the duties of a preceptor.

10. Violation of Probation

If respondent violates probation in any respect, the board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an Accusation or Petition to Revoke Probation is filed against respondent during probation, the board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

If respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been met or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

11. Notification of Employment

Within ten (10) days of a change in employment -- either leaving or commencing employment -- respondent shall so notify the board in writing, including the address of the new employer.

12. Notice to Employers

Respondent shall notify all present and prospective employers of the decision in case No. _____ and the terms, conditions and restrictions imposed on respondent by the decision.

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking new employment, respondent shall cause his/her employer to report to the board in writing acknowledging the employer has read the decision in case No. _____.

"Employment" within the meaning of this provision shall include any full-time, part-time or temporary service as a chiropractor.

13. Notice to Employees

Respondent shall, upon or before the effective date of this decision, ensure that all employees involved in chiropractic operations are made aware of all the terms and conditions of probation, either by posting a notice of the conditions of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout probation. Respondent shall ensure that any employees hired or used after the effective date of this decision are made aware of all the terms and conditions by posting a notice, circulating a notice, or both.

"Employees" as used in this provision includes all full-time, part-time, temporary and independent contractors employed or hired at any time during probation.

14. License Surrender

Following the effective date of this decision, if respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may voluntarily tender his/her license to the board. The board

reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the tendered license, respondent will no longer be subject to the terms and conditions of probation. Respondent shall relinquish his/her wall license and pocket renewal license to the board or its designee within ten (10) days from the date of acceptance.

15. Completion of Probation

Upon successful completion of probation, respondent's license will be fully restored.